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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,709	12/15/2005	Richard Chi-Te Shen	US030224US	8498
65913	7550	03/17/2010	EXAMINER	
NXP, B.V. NXP INTELLECTUAL PROPERTY & LICENSING M/S41-SJ 1109 MCKAY DRIVE SAN JOSE, CA 95131			DAZENSKI, MARC A	
			ART UNIT	PAPER NUMBER
			2621	
			NOTIFICATION DATE	DELIVERY MODE
			03/17/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

***Advisory Action
Before the Filing of an Appeal Brief***

Application No.

10/560,709

Applicant(s)

SHEN ET AL.

Examiner

MARC DAZENSKI

Art Unit

2621

—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

THE REPLY FILED 04 March 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-42.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: On page 13 of the remarks, Applicant argues that the rejection of claim 1 in view of McLaren is improper because "a single I-frame is not a clip." Further, Applicant states "the plain meaning of a clip is that of a short portion of video, usually part of a longer piece and not just an individual image." The examiner notes that while this may "usually" be true, the claim is worded broadly enough that it may in fact be interpreted as explained by the examiner in the previous action. Secondly, when playing the performance in a trick play mode, according to the examiner's interpretation multiple I-frames would be displayed, essentially constituting a clip. Applicant also argues "no correspondence has been presented for playing different clips at rates different than the trick play rate." The examiner disagrees and points to e.g. figures 1-2 of McLaren (specifically the 7X, 21X, 2X, and 10X trick play streams) as well as the arguments in the previous office action. Still further, Applicant argues "there is not any selected and stored indication of start locations." The examiner disagrees and points to the arguments presented in the previous action in support of his position. On page 14 of the remarks, Applicant requests the objection to claim 42 be removed because the Examiner presents no rationale based upon MPEP or law to support the objection. The examiner admits that while the specification does list examples of physical transmission mediums, examples alone do not define a specific medium. Also, the examiner notes that the listed "physical transmission mediums" in the specification refer to a medium comprising the video performance, and NOT the claimed "data that when executed by a processor performs the steps of" (i.e., a computer program). Lastly, Applicant argues on page 14 that the rejections under 103(a) are prima facie invalid because the combinations are directed toward selecting between different streams and does not contain both trick play and skim play clips arranged and/or used as claimed. The examiner has fully disclosed in the previous actions how the combinations effectively read on the claim limitations, and therefore he stands by the original rejection as set out in the previous office action.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____

/Marsha D. Banks-Harold/
Supervisory Patent Examiner, Art Unit 2621

/MARC DAZENSKI/
Examiner, Art Unit 2621